

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FLYING HELIBALL, LLC,	Civil Action No. 2:23-CV-00036- JRG-RSP
Plaintiff,	Chief District Judge Rodney Gilstrap
v.	Magistrate: Roy Payne
TARGET CORPORATION,	Filed: January 31, 2023
Defendant.	

JOINT MOTION TO CONTINUE TRIAL

Plaintiff Flying Heliball, LLC and Defendant Target Corporation (collectively, the “Parties”) file this Joint Motion to Continue Trial, which was initially set for December 9, 2024. Parties have conferred and agreed to continue trial to a later date. The Parties therefore move the Court continue trial currently set for December 9, 2024.

Plaintiff’s lead counsel has two trials scheduled in December 2024 in addition to the captioned matter and would be prejudiced if forced to attempt to complete all three trials in such a compressed period of time, with many overlapping pre-trial deadlines. *World Tech Toys, Inc. v. Straight Forwarding, Inc.*, 22TCV22693 is scheduled to begin trial on December 3, 2024, in the Los Angeles County Superior Court. *World Tech Toys, Inc. v. CVS Pharmacy, Inc.*, 23-5567 FMO (JPRx) is scheduled to begin trial on December 17, 2024, in the U.S. District Court for the Central District of California.¹

¹ This trial was recently rescheduled by the court and the undersigned, acting as World Tech Toys, Inc.’s counsel in that matter, had requested a trial date in January 2025, which would not have conflicted with this Court’s existing trial schedule.

Similarly, defense counsel has trials scheduled for January and February. Accordingly, the parties stipulate to the new case management deadlines below and respectfully request that the Court adjust its Court's Docket Control Order (Dkt. 22) as follows:

Event	Original Date	New Date
*Jury Selection – 9:00 a.m. in Marshall, Texas	December 9, 2024	March 10, 2025
*Defendant to disclose final invalidity theories, final prior art references/combinations, and final equitable defenses	7 days before Jury Selection	7 days before Jury Selection
* Plaintiff to disclose final election of Asserted Claims	10 days before Jury Selection	10 days before Jury Selection
* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date	November 12, 2024	February 11, 2025
*Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy Payne	November 4, 2024	February 3, 2025
*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions in limine. The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.	October 28, 2024	January 27, 2025
*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions in Limine, Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations	October 28, 2024	January 27, 2025
*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shawn McRoberts, at shawn_mcroberts@txed.uscourts.gov.	October 21, 2024	January 21, 2025

* File Motions in Limine The parties shall limit their motions in limine to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.	October 15, 2024	January 13, 2025
Serve Objections to Rebuttal Pretrial Disclosures	October 15, 2024	January 13, 2025
Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures	October 7, 2024	January 6, 2025
Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof	September 23, 2024	December 23, 2024
*Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. ⁴ Motions for Summary Judgment shall comply with Local Rule CV-56.	September 16, 2024	December 16, 2024
*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.	September 3, 2024	December 2, 2024
*File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court. Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>	September 3, 2024	December 2, 2024
Deadline to Complete Expert Discovery	August 26, 2024	November 25, 2024
Serve Disclosures for Rebuttal Expert Witnesses	August 12, 2024	November 11, 2024
Deadline to Complete Fact Discovery and File Motions to Compel Discovery	July 22, 2024	October 21, 2024
Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof	July 22, 2024	October 21, 2024
Comply with P.R. 3-7 (Opinion of Counsel Defenses)	June 27, 2024	September 26, 2024

*Claim Construction Hearing 9 a.m. in Marshall, Texas before Judge Roy Payne	June 6, 2024	September 5, 2024
*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)	May 23, 2024	August 22, 2024
*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)	May 16, 2024	August 15, 2024
Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)	May 9, 2024	August 8, 2024
Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).	April 25, 2024	July 25, 2024
Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.	April 25, 2024	July 25, 2024
Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)	April 11, 2024	July 11, 2024
File Response to Amended Pleadings	April 4, 2024	July 4, 2024
*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.	March 21, 2024	June 20, 2024
Comply with P.R. 4-3 (Joint Claim Construction Statement)	March 14, 2024	June 13, 2024
Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)	February 22, 2024	May 23, 2024

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Dated: February 21, 2024

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Dated: February 21, 2024

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Certificate of Service

The undersigned certifies this document was filed electronically in compliance with Local Rule CV-5(a). As such, it was served on all counsel of record on February 21, 2024.

/s/ Michael O'Brien

Michael O'Brien

Certificate of Conference

Counsel has complied with the meet and confer requirement in Local Rule CV-7(h), and this Motion is unopposed. I personally conferred with Defendants' counsel on February 9, 2024 regarding the relief requested by this Motion and Defendants are unopposed to the relief sought.

/s/ Michael O'Brien

Michael O'Brien